

TITLE 3: HEALTH AND SANITATION AND ANIMAL REGULATIONS

DIVISION 3: ENVIRONMENTAL HEALTH

Chapter 4: Food Protection

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33.041 Authority.

Pursuant to the authority cited in Chapter I (Authority and Administration) of this Environmental Health Code (E.H. Code), Health and Safety Code Section 3700 et seq. (Common Cup), Section 3800 et seq. (Common Towel), Section 4000 et seq. (Ice), Section 4040 et seq. (Bottled Water), Section 5474.20 et seq. (Food Crop Growing and Harvesting Sanitation), Section 25885 et seq. (Glazed Ceramic Tableware), Section 260(10 et seq. (Sherman Food, Drug and Cosmetic), Section 27500 et seq. (Uniform Retail Food Facilities), Section 28110 et seq. (Cold Storage Foods), Section 28280 et seq. (Food Sanitation), Section 28360 et seq. (Canneries), Section 28700 et seq. (Frozen Foods), Administrative Code, Title 17, Penal Code Section 383 (Sale of Adulterated Products), and other applicable state law, this jurisdiction authorizes, that all food protection laws of the state and of this E.H. Code be enforced within this jurisdiction by the director and enforcement officers of the Department of Environmental Health Services (DEHS) of the County of San Bernardino. All provisions of Chapters 1, 2, and 3 of this E.H. Code shall apply to this Chapter except as provided herein.

Renumbered and restated Ordinance #3105 (1986);

33.042 Definitions.

Definitions herein shall supplement all definitions in State law pertaining to food protection, and of Chapters I and 3 of this E.H. Code.

(a) "Charitable Organization" shall be any church, church society, private club, or any other nonprofit association of principally a religious, philanthropic, civic improvement, social, political, or educational nature.

(b) "Convenience Store" shall be any retail food facility or portion thereof where activities primarily relate to self-service prepackaged foods and limited nonpotentially hazardous food preparation by employees, such as popcorn, beverages, ice products, condiments and limited potentially hazardous food preparation by employees, such as hot dog warming.

(c) "Food Establishment and Food Facility" as used in this Chapter shall include retail and wholesale operations.

(d) "Food Handling Place" shall be any retail or wholesale facility or portion thereof where activities primarily relate to food being held for or made available to the public in a packaged form or state requiring further processing off of the facility's premises. It shall include warehouses; grocery stores; vegetable markets; produce stands; seasonal produce stands; certified farmers' markets; supermarkets; meat markets; seafood markets; health food stores; beer, wine, or alcoholic beverage distributors; and similar operations at a fixed location.

(e) "Food Hawker Vehicle," "Food Catering Vehicle," or "Food Vehicle" shall be as "vehicle" is defined at California Health and Safety Code Section 27540.

(f) "Food Processor" shall be any wholesale facility or portion thereof where activities primarily relate to large-scale food preparation for consumption off the facility's premises. It shall include bakeries, ice plants, canneries, bottlers, frozen food plants, salvagers, manufacturing plants, processing plants, commissaries, school kitchens, and similar operations at a fixed location.

(g) "Food Service Manager" shall be the owner, operator, or licensee managing the food service operations and employees at any facility subject to this Chapter where food preparation or processing occurs.

(h) "Food Worker" shall be any person engaged or employed in any activity or facility subject to this Chapter so that some portion of their person, clothing, or body discharge could come in contact with exposed food or food contact surfaces. It shall not include workers exempted by the Agriculture Code, nor workers in charitable and similar nonprofit associations where activities are exempted from DEHS permit fees.

(i) "Ice/Slush Products Machine" shall be any machine manufacturing a nondairy ice/slush product upon the principle of scraper blades sweeping a freezing surface or block of ice.

(j) "Itinerant" shall include "mobile food preparation unit" as defined at California Health and Safety Code Section 27526 and "temporary food facility" as defined at Health and Safety Code Section 27538.

(k) "Nonpotentially Hazardous Foods" shall be all foods not defined as "potentially hazardous foods" in California Health and Safety Code Section 27531.

(l) "Public Eating Place" shall be any retail food facility or portion thereof where activities primarily relate to the preparation of food for consumption on the facility's premises or for carry-out per customer order. It shall include restaurants, cafeterias, cafes, bakeries, taverns, bars, lounges, ice cream parlors, soda fountains, walk-in and drive-in movie theater snack bars, public or private school cafeterias, delicatessens, sandwich shops, snack bars, nonexempt food service operations, and similar food service operations at a fixed location.

(m) "Seasonal" shall mean an operation totaling not more than six (6) months per year.

Renumbered and restated Ordinance #3105 (1986);

33.043 Plan Review and Construction Permits Required.

No construction activity shall occur for any facility or activity subject to DEHS jurisdiction without plan review and construction permits first being obtained from DEHS as provided for in Chapter 2 of this E.H. Code.

Renumbered and restated Ordinance #3105 (1986);

33.044 Current Operational Permit Required.

(a) Generally. Except as exempted herein, no person or entity shall own, operate or permit any retail or wholesale activity pertaining to the handling or holding of food for the public, without first applying for, receiving and retaining an unexpired, unsuspended, unrevoked permit from DEHS for each food facility or activity, and paying fees to DEHS in those amounts specified in the San Bernardino County Code Schedule of Fees, in accordance with Chapter 2 of this E.H. Code.

(b) Charitable Organizations Exempt from Fees. At member-only events, events not generally open to the public, and at occasional public fund-raising events, charitable organizations and similar nonprofit associations shall be exempt from DEHS fees, but shall notify DEHS, follow accepted food handling techniques, and operate from locations with facilities adequate that such techniques may be reasonably followed.

(c) Private Activities Exempt. Cooperative private food handling activities and noncommercial food activities in private homes are exempt from this chapter.

(d) Limited Commercial Exemption. This Chapter shall not apply where only nonpotentially hazardous food, properly packaged or protected, properly labeled, and with no evidence of adulteration or exposure to adulteration, is vended to the public in machines, or made available in public displays of ten (10) square feet or less.

Renumbered and restated Ordinance #3105 (1986);

33.045 Enforcement Activities.

Enforcement activities shall generally proceed as set forth in Chapters 1, 2, and 3 of this E.H. Code, and relevant state law pertaining to public food protection.

Renumbered and restated Ordinance #3105 (1986);

33.046 General Health, Safety, and Sanitation Requirements.

Every activity or facility subject to DEHS jurisdiction shall be so designed, constructed, repaired, replaced, conducted, operated, controlled, inspected, supervised, tested, and otherwise properly managed so that every reasonable step is taken to eliminate, reduce, or minimize the likelihood of injury, disease, or other harm where food activities relate to the public. Those requirements, specifications, and/or standards provided by state law for public food protection are hereby made applicable to every facility or activity subject to DEHS jurisdiction.

Renumbered and restated Ordinance #3105 (1986);

33.047 Specific Requirements.

(a) Current Standards Apply. Every food facility or activity subject to DEHS jurisdiction herein established, or upon change in scope of operation, construction, reconstruction, conversion, remodeling, additions or replacement of equipment or fixtures or other substantial change, shall comply with all current approved standards.

(b) Protection of Food from Adulteration or Contamination. Every food facility or activity subject to DEHS jurisdiction shall be so conducted that every reasonable step is taken to protect food from every circumstance whereby it may become adulterated, contaminated, or exposed to adulteration or contamination.

(c) Daily Cleaning Required. All food contact surfaces in every food facility or activity subject to DEHS jurisdiction shall be thoroughly cleaned at least daily of all accumulated dust, dirt, grease, food residues, and every other filth.

(d) Other Specific Requirements. Where a state standard is not prescribed for any facility or activity subject to DEHS jurisdiction, the standards of this Chapter shall be complied with.

Renumbered and restated Ordinance #3105 (1986);

33.048 Lavatory, Establishments Serving Food and Beverages.

(a) Every restaurant, cafe, bar, tea room, facility or other place where food, beer or alcoholic liquor is sold for consumption on the premises shall have maintained by the operator thereof, accessible within the enclosure walls of the building, room, or place, at least one separate toilet and adjacent hand washing facility for men and one separate toilet and adjacent hand washing facility for women, for the use of the patrons and employees of such establishment. All hand washing facilities shall be supplied with hot and cold running water under pressure. All establishments serving alcoholic beverages for consumption on the premises shall provide a minimum of one (1) urinal in each men's toilet room. All plumbing and plumbing fixtures shall be kept in good repair.

(b) EXCEPTIONS:

(1) Public toilets may be accessible through an outside entrance if the building is free standing with no adjacent barriers to entrance of restrooms.

(2) Provided no alcoholic beverages are sold for consumption on the premises, only one (1) public toilet for customers will be required if:

(A) The customer area inside the establishment is less than three hundred (300) square feet, as determined by DEHS; or

(B) The seating area outside the establishment is less than three hundred (300) square feet, as determined by DEHS.

(3) If a building is remodeled so either the inside customer area or the outside scaling area becomes greater than three hundred (300) square feet, then two (2) customer restrooms will be required as specified in subdivision (a) of this section.

Renumbered and restated Ordinance #3105 (1986);

33.049 Nonpermanent Food Facilities.

(a) Permits Required. Except as exempted herein, it shall be unlawful for any person to proclaim, hawk, peddle, cater, prepare, or serve food to the public from any vehicle, motorized or nonmotorized conveyance, mobile food preparation unit, temporary, itinerant, portable food service unit, vending machine, or otherwise prepare or hold food for the public without first applying for, receiving and retaining an unexpired, unsuspended and unrevoked permit from DEHS for each, and paying fees to DEHS in those amounts specified in the San Bernardino County Code Schedule of Fees, as set forth in Chapter 2 of this E.H. Code.

(b) Posting of Permits. Every permit sticker or document issued pursuant to subparagraph (a) shall be immediately affixed by the permit holder prominently on the vehicle, conveyance, food unit, or vending machine in the manner specified by DEHS.

(c) Temporary Special Event Requirements. For temporary special events, no permit shall be issued by DEHS unless previously or concurrently every requirement of Title 4, Chapter 15 of the San Bernardino County Code, or the requirements of this jurisdiction for such events, have been complied with.

(d) Documentation of Authority to Occupy Private Land. Every application for a DEHS permit pursuant to this section shall be accompanied with: (1) a letter of authorization from the legal owner or occupant upon which the vehicle, conveyance, or food unit is to be located, (2) a letter of authorization for the use of and documentation of the availability of DEHS approved toilet and handwashing facilities within two hundred (200) feet of and available for use whenever the vehicle, conveyance, or food unit is in operation; or otherwise provide such toilet and handwashing facilities within reasonable proximity as determined by DEHS.

(e) Sanitation Prerequisites to Permit Issuance. Every applicant for a permit pursuant to this Section shall comply with every applicable state law before receiving a permit to operate.

(f) Itinerants (Mobiles and Temporaries) Generally Prohibited. Food processing or preparation is prohibited in any vehicle, conveyance or other mobile itinerant, temporary or portable food unit except as provided in subdivision (g) herein, and except at facilities approved by DEHS and only at temporary special events, fairs, community celebrations, outdoor festivals, rodeos, circuses, carnivals, official off-road races and other similar official events of short duration under special permit of this jurisdiction.

(g) Itinerants (Mobiles and Temporaries) Allowed. Mobile food facilities that handle cappuccino and other coffee-based or cocoa-based beverages that may contain cream, milk or similar dairy products and which meet the requirements of California Health and Safety Code sections 114260, 114265 and 114270 are allowed.

Renumbered and restated Ordinance #3105 (1986); Amended Ordinance 3848 (2002);

33.0410 Food Worker or Manager Training. Certificates Required.

(a) Intent. This section is intended to set forth a uniform minimum standard of training and certification for all food workers and food service managers within this jurisdiction regarding food protection laws of the State and of this E.H. Code.

(b) Applicability. Except as provided herein, no person shall work or allow the employment of any person as a food worker within this jurisdiction except when such food worker possesses an unexpired, unsuspended, unrevoked food worker or food service manager certificate, or as a food service manager within this jurisdiction except with a food service manager certificate from DEHS. Food workers are exempt from this requirement for fourteen (14) calendar days following the date of employment if working under the supervision of a person holding an unexpired, unsuspended, unrevoked food service manager certificate from DEHS.

(c) Reciprocity. Food worker or manager certificates or cards and similar documents issued by other governmental agencies may be recognized by DEHS up to their stated expiration date, or up to two (2) years from the date of issue where no expiration date is stated.

(d) Food Worker Certificate Eligibility. A person shall be eligible for a Food Worker Certificate after paying a fee to DEHS in that amount specified in the San Bernardino County Code Schedule of Fees and successfully passing a DEHS-approved training course and proficiency examination. Every training course shall include at least two (2) instructional hours in: microorganisms, sources of food borne disease, means whereby food is contaminated by microorganisms or toxic substances, methods of protecting food to prevent food borne illnesses, time and temperature criteria preventing food borne illnesses, food worker personal hygiene, disease transmission by utensils or equipment, and multi-use utensil washing and sanitizing procedures. Every training course shall be conducted with qualified instructors and in facilities approved by DEHS.

(e) Food Service Manager Certificate Eligibility. A person shall be eligible for a Food Service Manager Certificate after paying a fee to DEHS in that amount specified in San Bernardino County Code Schedule of Fees and successfully passing a DEHS-approved training course/proficiency examination. Every training course shall include at least sixteen (16) instructional hours in all subjects listed in subparagraph (d) and additional instruction in: housekeeping and waste disposal practices, food purchasing, transportation, receiving, and storage, food preparation and use; sanitation of kitchens and dining service, health regulations, sanitation and safety management.

(f) Alternate Food Service Manager Certificate Eligibility. A person shall be eligible for a Food Service Manager Certificate after paying a fee to DEHS in that amount specified in the San Bernardino County Code Schedule of Fees and passing a DEHS proficiency examination, when such person possesses one or more of the following combinations of academic preparation and work experience: (1) a baccalaureate degree with at least a minor in food service operations, environmental sanitation, biological sciences, hospitality services, or related subjects, and at least one (1) year of relevant work experience; (2) an Associate-in-Arts/Science degree of thirty (30) semester units of coursework in those subjects listed in subparagraphs (d) and (e) and at least two (2) years of relevant work experience; (3) academic preparation equivalent to a Registered Sanitarian, and two (2) years relevant work experience.

(g) Expiration of Certificates. Every Food Worker and Food Service Manager Certificate shall expire three (3) years from the date of issuance. Certificates shall not show an issuance date greater than one (1) month beyond the date of the holder passing a DEHS-approved proficiency examination.

(h) Certificate Requirements After Issuance. Food Worker and Food Service Manager Certificates are nontransferable. Every food worker or manager on duty in any activity or facility subject to DEHS jurisdiction shall possess and present the required certificate upon request to DEHS enforcement officers. Every owner or operator of every facility engaging food worker(s) and/or manager(s) shall maintain upon the premises of such food facility a copy of an unexpired food worker certificate or food service manager certificate for all currently employed food worker(s) and manager(s) thereat, and present such copies upon request to DEHS enforcement officers.

(i) Certificate Suspension and Due Process Generally. After consulting with the Health Officer, DEHS enforcement officers may summarily suspend any Food Worker Certificate and Food Service Manager Certificates upon reasonable cause to suspect that the holder of such certificate may pose an immediate risk of infectious disease transmission to the public or coworkers. Whenever a certificate is summarily suspended, the enforcement officer shall issue to the holder thereof a written notice setting forth the grounds for such suspension and informing the holder to their right to a hearing thereon within fifteen (15) calendar days or else such right shall be deemed waived. Generally, the administrative procedures set forth in Section 33.028 of this E.H. Code shall apply except as follows:

(1) Any person whose certificate has been summarily suspended shall immediately surrender their certificate to a DEHS enforcement officer upon demand and immediately cease food worker activities.

(2) Such suspension and cessation shall continue until the Health Officer certifies to DEHS that the risk of infectious disease transmission from such food worker has ceased. At such time, DEHS shall return the suspended certificate to the holder within a reasonable period.

(j) Right of Appeal Procedures. Upon initial suspension of their DEHS certificate, any food worker or food service manager may appeal such suspension to the Director of DEHS and request a hearing thereon if such appeal or request for hearing is in writing and filed with the Director within fifteen (15) calendar days of such suspension; if not filed within such period, the right to appeal is deemed waived. Such appeal/request for hearing shall be

accompanied with documentation approved by the Health Officer, showing no infectious disease transmission risk exists. Thereafter, at reasonable periodic intervals, any food worker or food service manager whose certificate has been suspended may petition for a review of their current health status and for the end to such certificate suspension. Such petition shall be accompanied with documentation approved by the Health Officer, to support the petition. Upon a proper showing, DEHS shall act upon the petition in the manner set forth for administrative hearings in Chapter 2 (Permits and Hearing Procedures) of this E.H. Code.

Renumbered and restated Ordinance #3105 (1986); Amended Ordinance 3608 (1995);

33.0411 Violations, Remedies, and Penalties.

It shall be unlawful for any person or entity to violate any provision of this Chapter. Except as provided herein, all remedies/penalties of Chapters 1, 2, and 3 of this E.H. Code shall apply to this Chapter, and are in addition to all others provided by law.

Renumbered and restated Ordinance #3105 (1986);